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LOUISIANA LAWS DIFFER FROM LAWS OF OTHER STATES

Civil Law Rests Upon the
Old Roman Civil Law—
Married Women Can Not
Borrow Money—Freak
Legislation.

(By Frederic J. Haskin).

LOUISIANA is the only state in the union which has a system of law exclusively its own. In all the other states the jurisprudence is based upon the common law, which is their equal heritage from the English founders of the Republic.

The civil law, which prevails in Louisiana, is based upon the code Napoleon, and that in turn rests upon the old Roman civil law. As both the common and the civil law have the same object—the safeguarding of individual rights and liberty—there is not as bottom so much difference between the two systems as might seem at first glance. The divergences are largely matters of procedure—of the methods by which suits may be instituted and conducted.

For example, in the United States courts, and in the courts of practically all the other states, there is a law side and an equity side, and the two may not be confounded. In Louisiana, however, there is no equity side, but the law and equity may be passed upon in the same proceeding by the same judge.

Laws on Estates. The Louisiana law diverges most widely from the common law in all that relates to the family. In the common law the emphasis falls upon the man as an individual; in the Louisiana code, as in the French law, he is viewed essentially as a member of the family. Hence, in Louisiana there exists the curious statutes by which the right of a testator to dispose of his property is restricted to certain fixed proportions.

Under these ordinances a man dying without children, but leaving a father or a mother, or both, must leave one-quarter of his estate to them. If, at his death, he leaves children, the parents are eliminated and the forced heirs and the children take their place; in which case, if the testator has only one child, he must devise to that child at least one-third of his estate; if he has two children, he must leave them at least one-half; while if he has three or more, he cannot give them in his will less than two-thirds of his property.

Women Cannot Borrow. Under the Louisiana law a minor marrying without the consent of his parents may be disinherited. Chattel mortgage, which is a matter of considerable prominence in the common law, is unknown in Louisiana. Prior to 1908, when the state legislature amended the code, women could not legally be witnesses to a will. In general, the Louisiana code, in all its provisions respecting women, is remarkably solicitous to protect them even from their own weakness.

For example, there are stringent prohibitions against a married woman borrowing money with which to pay her husband's debts. A married woman may not, in fact, borrow money or alienate her property at all except with the consent of her husband or a judge, or, in some instances, with the approval of both.

One of the most benevolent provisions of the law is that which determines the ownership of the earnings of a

married couple. The code proceeds on the theory that in the great majority of cases the husband is the wage-earner of the partnership, but assumes that the wife's activities, though confined within the walls of her home, are of equal value and importance.

Therefore, it is held that one-half of all the money which he may earn shall go to his helpmate. However, property inherited or acquired by either member of this partnership—called technically the "community"—is not subject to this division, but becomes the exclusive possession of its recipient.

Of course, the law does not give either wife or husband any right to property which one or the other of them may have acquired prior to marriage, and the community is dissolved by death. Moreover, at the time of marriage, the parties may make a contract whereby there shall be no community between them, but each retain the exclusive ownership of their earnings. In the latter event, the contract must be recorded in the mortgage office, where it may be viewed by third parties, who might otherwise suffer from their ignorance of the status of the couple.

The Louisiana law is, moreover, exceptionally careful of the interests of minor heirs. For instance, it provides for what is known as the "family meeting." This is a council appointed by the court from among the relatives nearest to the testator, which exercises a sort of general supervision over his concerns, and to which the executor must report, and without the authorization of which the executor can take no step vitally affecting the administration of the estate.

Louisiana Wills. Regarding the nature of wills, the Louisiana code is singularly explicit, and for the most part its provisions exhibit an amazing freedom and foresight. One form of will which is peculiar to Louisiana is the "olographic will," regarded by some of the ablest lawyers in the state as the most satisfactory form of testamentary disposition. This is a will "wholly written, dated and signed" by the person making it.

Another form of will may be dictated to a notary, in which event it is known as a "testament by public act." The notary is prohibited from offering any suggestion during the preparation of this instrument as to the manner in which the testator shall dispose of his property; and in case he should violate the law in this regard, the will is voided. Louisiana is a will "wholly written, dated and signed" by the person making it.

The character of the Louisiana law is most readily understood from an examination of its history. From such a study one may learn better in any other way, how diverse are the elements out of which the existing code has been forged, and how deeply ingrained in the mental processes of the people are the ideals of the ancient Roman law.

The first laws that were enforced in Louisiana were the edicts of the realm of France and the "customs" of Paris, which were extended to the province of Louisiana by Louis XIV. in 1712. These "customs" of Paris were compiled in 1510, in somewhat tardy obedience to a decree of Charles VII. directing that the then unwritten traditions which had governed the jurisprudence of the various provinces of the kingdom should be reduced to writing, for the guidance of his judges. When, some 50 years after the publication of this edict, the

MME. CARRENO IS A THEOSOPHIST;

WOULD ABOLISH PENITENTIARIES

Believes Children Can Be

Reared So That Prisons

Will Be Unnecessary—Re-

lates Experience With El

Paso Police.

Mme. Carreno, the renowned pianist, arrived yesterday evening over the Southern Pacific, from Los Angeles, Cal., and is stopping at the St. Regis hotel. She is a theosophist.

"Some people think we are crazy, but that is the way with every one that adopts any new thought," she declared. "As long as you do as others do, you are all right, but the very minute you change—regardless of what you think yourself, others think you are unbalanced."

"But I'm a theosophist; I don't care what anyone says. I think it one of the greatest and noblest works ever undertaken as applied to children."

"I'm a dear, loving mother; nothing would please me better than to be able to spend my entire time training their little minds and watching them develop. They are as a flower; their little minds are as pure as can be, with the same fragility of a tender shrub."

To Abolish Penitentiaries. "I don't believe in the present penal system. A child that is reared without any care or training is necessarily handicapped compared with the child that is reared in luxury. The little child that has had no care in rearing

can't be expected to be the same morally. I tell you," she added, "we are going to do away with the penitentiaries, by training the child from the cradle as I should live."

America and Music. In her estimation a great metamorphosis in matters artistic has taken place in this country. Where American audiences only a few years ago were slow to receive the musical beauty of a composition, they now are considered to be the most discerning listeners among all musical nations.

"American women are the greatest music enthusiasts and most assiduous workers," she said. "They bring into it an understanding and ardor which, among European musicians, is no longer ridiculed. The women practice music, while the men follow their trades and professions. This is not intended to mean that the men are not musical or do not like music. Indeed, the men are as fully appreciative of good music as the women, only they have not the time necessary to enjoy it."

Mme. Carreno has met many American women pianists during her stay in this country and always expressed the profoundest admiration for their work in art.

El Paso Ten Years Ago. "Let me tell you of a little experience I had, when I was in El Paso, 10 years ago," she said, growing reminiscent. "My husband and I got off the train and gave our baggage over to what we thought was the hotel porter. I had a traveling letter and stationery case. The cases contained all my correspondence and contracts, among other things, and it was almost impossible for me to get along without it, but from the depot to the hotel the traveling roll was lost. I had to have the case so I called my manager and asked him where it was. He said he would go to the depot and look it up. He came back in a few minutes saying he could not find it there, but not to worry as he would get it. I told him to go with him, and we went to the porter, but he denied knowing where it was. We then went to the police station, and here is where the comical part comes in. When my manager opened the door for me to pass in, there were four big maltwain men sitting at a table playing cards. They had each two big pistols strapped on to them. I walked in all four jumped to their feet and grabbed a gun in each hand."

"I said, 'Easy, gentlemen, don't shoot me; let me explain,' and I never will forget the expression on their faces."

"The chief came forward and told him what my business was, and the importance of it, and he said he would get my property before daylight if he had to awake everybody in the city, and he did that too."

He went to one of the other hotels, and there was my roll in the office waiting for some one to claim it."

Mme. Carreno entertained Mrs. Helen Roberts, of El Paso, last evening, being an old acquaintance of Mrs. Roberts.

All Physicians

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"Customs" of Paris were committed to paper, they formed a work of some 16 titles and 362 articles.

The "Black Code"

In addition to the "customs," a number of ordinances, which had been adopted by the French government from time to time, were applied to Louisiana. Of these the most interesting was the "black code," first promulgated in 1685, for the government of slaves. All of these laws remained in force in Louisiana down to 1769, when the province passed into the hands of Spain.

In that year Don Alejandro O'Reilly, the new Spanish governor, made extensive changes, not only in the law, but in the entire machinery of government. He abolished the law as based, like the French, upon the old Roman civil code, they were similar, especially with regard to matrimonial rights, testaments, successions, etc., and the transition from the one to the other was comparatively little hardship to the population of Louisiana.

Frank Legislation. Louisiana is not free from freak legislation. It has a law fixing the size of carts in which firewood may be vended in New Orleans. Another forbids anyone from rising from his seat during the performance at a theater. Still another makes it a serious offense to entice away from his employer any hired man or apprentice.

There is an anti-high law, which is vigorously enforced at all the theaters, and the Jim Crow street car law is much in evidence in New Orleans. This last cited statute provides that every car shall have the rear portion screened off for the use of negro passengers; but as no special sort of screen was provided for the act, the railroad supply one 18 inches long by four or five inches high, which, hooked on the back of one of the seats, unquestionably complies with the letter of the law, though plainly violating the spirit of it.

ALAMO TO HOLD ELECTION MONDAY

Father of El Pasoan Is Nominated for Town Trustee.

Alamogordo, N. M., Feb. 23.—On account of the withdrawal of W. G. Rol from the citizen's ticket as a candidate for one of the four trustees a mass meeting was held at the courthouse last night for the purpose of nominating a candidate to take Mr. Rol's place on the ticket.

The meeting resulted in nominating W. H. Park by acclamation. Mr. Park is the father of Mrs. A. P. Jackson of El Paso, who owns considerable property here. The election will be held Monday, February 28.

SIERRA BLANCA SCHOOLS OBSERVE HOLIDAY

Mrs. Fannie Love's Children Are Summoned To Her Bedside—Sierra Blanca News Notes.

Sierra Blanca, Tex., Feb. 23.—Misses Herman and Hurd, teachers in the public school, were in El Paso Tuesday, there being no school on account of Washington's birthday.

Quite a number from this place went down to La Valley to attend the Washington exercises of the school there, in charge of Mrs. Alice Auten.

Tom Stalcup has just proved up on his claim near here and is leaving tonight on the T. & P. for visit to his old home at Dalhart.

Mrs. Fannie Love continues quite ill and her children have been summoned to her bedside. Those who are here are Mrs. W. G. Moore and Vert Love from Marfa, R. W. Love of Belen, Dick George, and Tom Love of this place, and Rowdy Love from his New Mexico ranch.

The "72" club was entertained by S. G. Gould recently. The men who compose the club spent a pleasant evening at cards.

Mrs. L. A. Beatty is in town on business.

W. A. McBeth is in from his ranch near La Valley.

Mrs. S. G. Gould and little daughter are in El Paso for a few days.

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PLANS POWER PLANT ON PENASCO RIVER

El Pasoan Interested in Project—Acreage Under the Honde.

Roswell, N. M., Feb. 23.—Mr. and Mrs. Joseph Swazek of El Paso, who spent considerable time at Carlsbad and Artesia and three days in Roswell, have gone to Denver, where Mr. Swazek is to confer with persons about the development of the proposed water power electric plant on the Penasco river.

A synopsis of the report of territorial engineer Vernon L. Sullivan, prepared by James B. Habst, secretary of the Rio Grande Reservoir Water Users' association, on the condition of the Honde river from its source to the Honde reservoir, 13 miles southwest of Roswell, is an interesting document. Among many items of interest, it shows that there are in cultivation above the reservoir 5786 acres in alfalfa, corn, oats, wheat, beans, barley, clover, millet, timothy, potatoes, strawberries, apples, and other fruits. Of alfalfa alone, there are 2211 acres and 450 acres of orchard and the total acreage under cultivation is watered by 140 different irrigation ditches, there being 292 farmers occupying the tract, averaging three farmers to each ditch.

The loss from seepage between the Diamond A ranch and the filial canal of the Honde reservoir, from May, 1908, to August, 1909, inclusive, was 12,822 acre feet, leaving the quantity that would have evaporated. The only way to get this water to the Honde reservoir apparently will be to build a water-tight canal from the Diamond A ranch to the Honde reservoir, a distance of 12 miles.

AUTO MAIL ROUTE FROM VAUGHN TO ROSWELL

Public Schools of Vaughn To Have Washington Program Friday New Minister Assumes Pastorate.

Vaughn, N. M., Feb. 23.—The Roswell mail auto will make its first trip Monday, Feb. 28.

The chamber of commerce met in regular session recently.

On account of pressing school work the public schools postponed the celebration of Washington's birthday till Friday.

The Brotherhood of Yocmen, recently organized here, will give a dance Thursday evening. At an early date they will form a dramatic club and will give frequent entertainments.

Rev. N. C. Walker, the new pastor of the Baptist church, is now in charge of the pastorate. He is arranging to move his family to Vaughn.

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FIRST FLOOR El Paso Herald Office. A. H. Richards, Jeweler. International Book Co. Wm. W. Miller, Real Estate. Lobby Cigar Stand.

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THIRD FLOOR R. L. Nichols, Attorney at Law. Colorado National Life Assurance Co. E. McMillan, Gen. Agent. Southwestern Portland Cement Co.

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